

BEFORE THE ELECTRICITY OMBUDSMAN

No0.16 C-1, Miller Tank Bed Area (Behind Jain Hospital)
Vasanthanagar, Bengaluru-560052.

Present: S.S Pattanashetti,
Electricity Ombudsman

Case No. OMB/C/G-392/2020

Dated 09/03/2020

In the matter of

M/s. Mysore Steels Limited,
Metagalli Industrial Estate,
K.R.S. Road,
Metagalli,
Mysuru – 570016,
Mysuru District.

Represented by:

Shri Gururaj S R,
Vice President – Finance & Admin.,
#10896, Vijayanagar,
4th Stage, II Phase,
Mysuru District.

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Vs

Appellant

- 1) The Assistant Executive Engineer (Elec),
O & M V.V. Mohalla Sub-division, CESC,
Mysuru-570002.
- 2) Chairperson, Consumer Grievance Redressal Forum (CGRF)
Mysuru District,
Superintending Engineer (Ele),
O & M Circle, CESC,
Jodi Basaveshwara Road,
Kuvempunagara,
Mysuru District.

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Respondents

- 1) This Appeal/Complaint is filed before this Authority, by M/s. Mysore Steels Limited, (Appellant/ Complainant), under the provisions of

Clause 21.2 of the KERC (Consumer Grievance Redressal Forum and Ombudsman) Regulations 2004, in Form 'B' challenging the order No. CGRF ಅಇಂ(ಓ)/ಕಾನಿಇಂ(ಕ)/ಸಕಾನಿಇಂ(ಕ)/19-20/CYS 319, dated 24-01-2020 of CGRF, Mysuru District, by inter-alia seeking the following reliefs:

To provide temporary reduction of load as per their application dated 28th June, 2019 effective from 1st September, 2019.

- 2) Brief facts, which are relevant to the case on hand, as claimed by the Appellant/Complainant are as follows:

The Appellant/Complainant M/s. Mysore Steels Limited was established in 1973 and was one of the highest revenue generators to CESC/KEB for more than 3 decades apart from providing direct employment to more than 750 workmen and equal amount of indirect employment. Due to acute shortage of power leading to energy cuts in the State of Karnataka to an extent of upto 80%, the unit suffered huge losses and was referred to BIFR and rehabilitation scheme was sanctioned by BIFR in 2007 and the scheme entirely put in place in 2015. The company restarted the rolling mill with a 2000 KVA load installing a brand new 11 KV dedicated feeder and in the second phase went on to restart steel making by installing a brand new substation and drawing a 66 KV line on its own spending more than Rs. 4 Crores and increasing the demand to 7500 KVA. During this period the company provided substantial revenue running into crores of rupees and were one amongst the top revenue generators for CESC. While the unit was making a turn around the company suffered a setback in the form of a tenfold increase in graphite electrode prices (key consumable of the

furnace) from Rs. 125/- per kg to Rs. 1250/- per kg and the operation turned totally unviable. In this back ground, the unit temporarily suspended the operations of steel making and was planning to restart the operations as and when the prices of graphite electrodes soften. Steel making operations was temporarily suspended and continued operating the rolling mill division only for which 2000 KVA was sufficient. The company approached CESC for a temporary reduction of load to 2000 KVA which was provided to. Since the graphite rates did not soften, the company again approached CESC to continue with the temporary reduction of load which was provided. As there was a delay in restarting steel making division since the prices did not soften and rolling mill operations were not profitable the company approached CESC for a permanent reduction of load to 500 KVA. In the meeting held on 16th January 2019 the company informed CESC that they are expecting the price of graphite electrode to soften in 3 to 4 months and in the mean time they are expecting the bankers to support with working capital limits and they may go back to the original load shortly. In this back ground the company requested CESC not to insist for changing any of the electrical equipments to reduce the load to 500 KVA. Finally, the company agreed that they will file a letter to modify their application from permanent to temporary and accordingly a letter was filed on 16-01-2019. In the meeting it was also agreed that temporary reduction be provided for a further period of 6 months from 1st February 2019. Finally, the same was provided from 1st March 2019 penalizing them for 7500 KVA (against actual usage of 100 KVA) at Rs. 15 Lakhs per month for December 2018 and January 2019. Totally Rs. 30 Lakhs was forced upon them. The reduction was from 1st March

2019 to 1st August 2019 meter reading date. Even though the rates of graphite electrodes had softened, there was a delay from their bankers side to release the limits and in this back ground they registered an application on 28th June 2019 for extending the temporary reduction of load for a further period of 6 months. In the meantime, the company had entered into an arrangement with an international firm for exclusively operating the plant for them and the operations to start by early 2020 and the said agreement was also submitted to CESC. With this agreement in hand the company approached CESC for extending the temporary reduction of load for one last time. The application for temporary reduction of load was filed on 28th June 2019 in Division Office of the Licensee and it was not disposed off even after 6 months from the date of application. This is causing huge financial burden on the company as CESC has started levying demand charges on 7500 KVA amounting to Rs. 15 Lakhs per month (totalling to Rs. 60 Lakhs till date apart from Rs. 30 Lakhs forced on them in December 2018 and January 2019) against the actual usage of 100 KVA and demand charges of Rs. 25,000/- per month. This is a huge set back to the company and could even result in permanent suspension of operations. The company representatives have met the officials of CESC almost each day from July 2019 to September 2019. Even after constant follow up there was no reply from CESC. And hence this application.

Grounds: -

As per regulation 4.02 all applications accepted are to be disposed off in a time bound manner. In so far as timeliness of the EHT application is concerned the same has to be sanctioned within 45 days. The timeline has not been adhered to, causing huge financial burden to a sick

company under revival. The application was made under regulation 34.02 and as per the regulation the reduction is to be given effect to from the meter reading date following expiry of 2 months from the date of registration of application. The application was filed on 28th June 2019 and the effective date was 1st September 2019. Without disposing off their application CESC reverted back to billing for 7500 KVA against their usage of 100 KVA. The implementation date for reduction of load as provided in the regulation is very clear and unambiguous. It is mandatory as per regulation 34.02 the reduction of load is to be given effect to within 60 days. If CESC was not willing to provide temporary reduction of load, it could have advised them to modify their application to permanent reduction and processed their application as done in January 2019. Principles of natural justice was not followed causing huge financial burden on the company amounting to more than Rs. 1.25 Crores till date. There is no revenue loss to CESC by providing temporary reduction of load. The maximum recorded demand from the last 12 months is less than 100 to 150 KVA and CESC in all fairness should have accepted and provided the reduction as sought. The flexibility for reduction of demand is available under the regulation from the meter reading date following expiry of 2 months from the date of registration of application.

- 3) Both the parties were informed vide this office letter No. OMB/C/G-392/2020/D-1429 dated 11-02-2020, regarding availability of provision in Sub-Regulation 1 of Regulation 20 of KERC (CGRF & Ombudsman) Regulations, 2004 for settlement through conciliation and mediation and to appear before this Authority on 19-02-2020.

However, they have not availed the benefit of the said provision. The case was listed for hearing on 19-02-2020 and 26-02-2020.

- 4) The Respondent-1/AEE has filed his statement of objections on 26-02-2020 at the time of hearing of the case. He has stated as follows:-
The installation bearing RR No VVHT-63 is standing in the name of M/S. Mysore Steels Limited with a sanctioned load of 7500 KVA under HT 2A on 02-02-2008. The consumer filed an application for temporary reduction of load from 7500 KVA to 2000 KVA in the Division Office on 28-09-2017. Even though the consumer had an outstanding balance of Rs. 53,63,395/- the Division Office on 29-11-2017 ordered for temporary reduction of load as per KERC regulation 34.02 for a period of 6 months from 01-12-2017 against the assurance given by the consumer to clear the outstanding dues. As per this order electricity bill for a demand of 2000 KVA for the period from January 2018 to June 2018 has been given to the consumer. The consumer on 26-05-2018 filed another application in Division Office for the second time for temporary reduction of electricity load from 7500 KVA to 2000 KVA. In the month of the application i.e., May 2018 the consumer's outstanding electricity bill was Rs. 46,02,620/-. Even then on the request of the consumer and his assurance to clear the outstanding dues, the Division Office on 05-06-2018 issued order temporarily reducing the electricity load for a period of 6 months from 7500 KVA to 2000 KVA from 01-06-2018. As per this order the consumer has been given an electricity bill for 2000 KVA from July 2018 to December 2018. In the month of February 2019 even though the outstanding electricity bill was Rs. 51,96,434/- and as per regulation for a sanctioned load of 7500 KVA, the security deposit to be maintained by the consumer was

Rs. 1,38,75,000/-, the security deposit in the account of the consumer was Rs. 35,32,280/- only. The consumer has failed to pay the difference amount. Even under these circumstances CESC on the request of the consumer for the third time as per the order of the Chief Engineer dated 28-02-2019 temporarily reduced the load from 7500 KVA to 500 KVA for a period of 6 months from March 2019. As per this order the consumer has been given electricity bill for 500 KVA from March 2019 to August 2019. On 28-06-2019 the consumer once again applied for temporary reduction of electricity load from 7500 KVA to 500 KVA. The Chief Engineer (Ele), O & M Zone, Mysuru has instructed to inform the consumer that if the period of temporary reduction of electricity load is extended it will amount to violation of KERC regulations and hence his request cannot be considered. In this background the consumer has been given electricity bill for 7500 KVA from 01-09-2019. The consumer challenging the letter of CE (Ele) O & M Zone, CESC, Mysuru addressed to the Superintending Engineer (Ele) O & M Circle, Mysuru filed a complaint before the CGRF Mysuru District. The CGRF Mysuru District after examining the case in detail has ordered that decision taken by CESC is correct and upheld the same. The request of M/s. Mysore Steels Limited for temporary reduction of load has been rejected by CESC for the following reasons: -

Even though CESC for the survival of the industry made provision for payment of outstanding electricity bill and security deposit amount in instalments and temporarily reduced the electricity load, the consumer has failed to pay the instalments within time to CESC and failed to utilize the opportunity given. As per Clause 34.00 of Conditions of Supply of Electricity (COS) any consumer applying for change in

electricity load of the installation has to clear all the dues to the Licensee. The consumer has failed to pay the dues to CESC regularly. The Chief Financial Officer (CFO) of CESC for the first time through letter dated 08-02-2018 has permitted the consumer to pay Rs. 31,99,150/- in 4 equal instalments along with the electricity bill. The CFO for the second time vide letter/order dated 22-09-2018 has permitted payment of the then outstanding amount of Rs. 59,28,740/- in 6 equal instalments payable within 10th of every month. The consumer has failed to make use of the opportunity given by CESC. Giving of different dates for starting of production in different applications and giving incorrect information has resulted in CESC rejecting the application of the Appellant/Complainant. If electricity load is temporarily reduced as per the request of the consumer CESC will have to incur monthly loss of Rs. 12,49,500/- (for 6 months Rs. 74,97,000/-). The consumer has failed to abide by the commitments made by him for payment of outstanding electricity dues and failed to revive and start the industry. This has resulted in CESC coming to a decision to reject his application. For the above said reasons the application of the consumer for temporary reduction of power cannot be considered by CESC. Hence the complaint/appeal of the Appellant/Complainant may be rejected.

- 5) The Appellant/Complainant on 26-02-2020 has filed his further submission in response to the parawise comments/statement of objections filed by CESC. In this submission they have stated that the contention of CESC, that temporary reduction can be permitted for a maximum period of 6 months only is not correct. In the present case only CESC has already provided temporary reduction 3 times to them

and with this precedence it may be interpreted that temporary reduction of load is provided at a time for a period of 6 months and can be extended once again after 6 months. Even assuming that the same was not permitted under regulation, the same could have been rejected or they could have been asked to modify the application to permanent reduction as was done in January 2019, wherein they modified their application for reduction of load to 500 KVA dated 28th December 2018 from permanent reduction to temporary reduction. CESC has not provided temporary reduction of load and this has resulted in colossal loss to a sick unit which is presently in the process of revival as per the scheme sanctioned by BIFR. The letter of Chief Engineer dated 30th September 2019 advising the officials that as per KERC regulations temporary reduction is permitted for a period of 6 months only and hence the same may be informed to the consumer, has not been received by them nor have they been informed in this regard. The total present outstanding is only on account of the levy of demand charges on 7500 KVA against their consumption of 100 to 150 KVA and is a matter of dispute. In respect of claims of CESC that even when there was outstanding dues, CESC had permitted temporary reduction of load, regulation 34.02 does not insist for clearing the dues while providing reduction of load, which in other regulations like 34.01, 35 and 36 is specifically provided. As regard to deposit it is submitted that AEE vide his letter dated 26th September 2019 has informed them that an amount of Rs. 1,17,550/- is to be paid as ASD, where as they had submitted number of letters to the Sub Division informing them that there is an amount of Rs. 2,89,620/- which is pending with CESC not appearing as deposit nor it has been adjusted to revenue. Once this is done there is

no ASD to be paid. As regard to claims of CESC that the company has never kept up promises either in restarting production nor payment of dues, it is submitted that efforts were made to keep the operations on by reducing the load to 2000 KVA operating only the rolling mill division while the steel making division was temporarily suspended as the prices of graphite electrode rose 10-fold globally and the operations of steel making turned unviable. Their proposal for revival of the industry is pending with State Government and hence the claim of CESC is denied.

- 6) Perused the appeal memo, parawise replies/comments submitted by the Respondent-1/AEE and also the further submissions made by the Appellant/Complainant. The provisions regarding reduction in contract demand/sanctioned load is contained in Clause 34.02 of Conditions of Supply of Electricity of Distribution Licensees in the State of Karnataka (COS) which reads as under: -

34.02 Reduction in contract demand / sanctioned load: / Surrender of RR No. (Installation) (Except IP set Installations under LT category)

During the Agreement period initial or extended, the Consumer is entitled to get his contract demand / sanctioned load reduced by executing a fresh Agreement. The reduction shall be given effect to from the meter reading date following the expiry of two months period from the date of registration of his application for reduction of contract demand / sanctioned load along with fresh Agreement for reduced contract demand / sanctioned load duly making payment of registration cum processing fee as prescribed under Clause 30.01.

The same conditions shall also be applicable for requisitions in case of temporary reduction of contract demand / sanctioned load as per provision in power supply Agreements subject to a maximum period of six months only.

In the present case it is observed that the Licensee for the first time temporarily reduced the contract demand of the Appellant/Complainant from 7500 KVA to 2000 KVA for a period of 6 months with effect from January 2018 in response to the application of the Appellant/Complainant dated 28-09-2017. The Licensee again for the second time temporarily reduced the contract demand for a further period of 6 months with effect from July 2018 in response to the application of the Appellant/Complainant dated 26-05-2018. The Licensee further temporarily reduced the contractual demand for the third time from 7500 KVA to 500 KVA for a period of 6 months with effect from March 2019 in response to the request of the Appellant/Complainant. When the Appellant/Complainant applied for temporary reduction of contractual demand for the fourth time from 7500 KVA to 500 KVA on 28-5-2019, the Licensee has not formally communicated its decision to the Appellant/Complainant. However, in their internal communication the Chief Engineer has communicated to Superintending Engineer that the request of the Appellant/Complainant cannot be considered, as it amounts to violation of KERC Regulations and this decision can be communicated to the Appellant/Complainant. Before the decision of the Licensee could be communicated to the Appellant/Complainant they have filed a complaint before the CGRF Mysuru District regarding the Licensee not taking a decision on their application for temporary reduction of load, as per their application dated 28-06-2019. A reading of the provisions contained in Clause 34.02 of Conditions of Supply of Electricity (COS) makes it clear that temporary reduction of contractual demand **shall be applicable subject**

to a maximum period of 6 months only. In violation of this Clause the Licensee has temporarily reduced the contractual demand of the Appellant/Complainant for 3 times. When the Appellant/Complainant applied for temporary reduction of contractual demand for the fourth time on 28-06-2019 the Licensee took a decision that it violates KERC regulations. The temporary reduction of contractual demand for the second and third time by the Licensee is without any power vested in them. If the intent of the legislation was to give power to the Licensee for temporary reduction of contractual demand for more than one time it would have been expressly provided in the regulations. The Licensee cannot exercise power which is not vested with them as per the Conditions of Supply of Electricity (COS). In response to the fourth application of the Appellant/Complainant, the Licensee has taken shelter that if the period of temporary reduction of electricity load is extended it will amount to violation of KERC regulation, whereas they had already violated the regulation when they temporarily reduced the contractual demand for the second and third time. The Appellant/Complainant's contention is that the concept of precedence should be applied in this case and temporary reduction is to be provided to them. Applying this concept in the present case will amount to violation of Clause 34.02 of Conditions of Supply of Electricity (COS). The decision of the Licensee that the request of the Appellant/Complainant for temporary reduction for the fourth time cannot be considered should have been communicated to them. It was an administrative lapse on the part of the Licensee not to have communicated its decision to the Appellant/Complainant. The Licensee may examine the fact that on previous 2 occasions their officers have violated the Conditions of

Supply of Electricity (COS) and granted temporary reduction of contractual demand and take appropriate action on the erring officers.

- 7) The prayer of the Appellant/Complainant in their appeal/complaint is “to provide temporary reduction of load as per their application dated 28th June 2019 effective from 1st September 2019”. The benefit given by the Licensee to the Appellant/Complainant in violation of Clause 34.02 cannot be demanded by the Appellant/Complainant as a matter of right.
- 8) In view of the foregoing paras the following order: -

No. OMB/C/G-392/2020/D-1446

Dated 09-03-2020

O R D E R

The Appeal/Complaint filed by the Appellant/Complainant is rejected.

Sd/-

(S.S Pattanashetti)
Electricity Ombudsman.

- 1) M/s. Mysore Steels Limited,
Metagalli Industrial Estate,
K.R.S. Road,
Metagalli,
Mysuru – 570016,
Mysuru District.
- 2) Shri Gururaj S R,
Vice President – Finance & Admin.,
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- 3) The Assistant Executive Engineer (Elec),
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- 4) Chairperson, Consumer Grievance Redressal Forum (CGRF)
Mysuru District,
Superintending Engineer (Ele),
O & M Circle, CESC,
Jodi Basaveshwara Road,
Kuvempunagara,
Mysuru District.
- 5) PS to Hon'ble Chairman, KERC
- 6) PS to Hon'ble Member (M), KERC
- 7) PS to Hon'ble Member (R), KERC
- 8) PA to Secretary, KERC.
- 9) Chairperson of all CGRF's in the State.